

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND  
FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

**LAW ENFORCEMENT-RELATED INJURY – 006-19**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Central	2/26/2019		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer B	3 years, 1 month
Officer C	3 years, 2 months
Officer D	3 years, 2 months
Officer E	3 years, 1 month
Officer F	2 years, 8 months

**Reason for Police Contact**

Officers responded to a radio call of a male armed with a knife. The Subject armed himself with a folding knife and began threatening officers. In an effort to subdue the Subject, officers discharged less-lethal munitions at the Subject, which later resulted in the Subject's admittance to the hospital for injuries resulting from the use of force.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 68 years of age

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on January 14, 2020.

## **Incident Summary**

Witness A was working at a restaurant when she came in contact with a patron in the restaurant (the Subject) who smelled of urine. Witness A, who was standing behind the counter, asked the Subject to take his food and leave the restaurant, so as not to disturb the other customers inside the restaurant. Witness A also informed the Subject that she would summon security if he did not leave. The Subject refused to leave and told her to call whomever she wanted. The Subject then removed a knife from his right-waist area and showed it to her. Witness A added that the Subject never verbally threatened her.

A short time later, Victim A entered the restaurant. While in the restaurant, Victim A noticed a horrible smell but could not determine the origin. Victim A asked a restaurant worker she believed to be the owner, Witness B, if the smell was coming from the sewer or from the man seated in front of her. Witness B informed Victim A that it was coming from the Subject. Witness B added that the Subject had been asked to leave the restaurant but refused. Victim A decided to approach the Subject and asked him to leave. The Subject did not respond to Victim A's request and did not make eye contact, so she returned to her seat. According to Victim A, approximately one minute later, while still seated at a table, the Subject removed a knife from his right pants pocket and stated, "Throat." Victim A recalled, "I was like, oh, God, no; I hope this guy doesn't just cut my throat." Victim A felt if she tried to exit past the Subject, he would cut her, so she waited for the Subject to put the knife away before she exited the location. Victim A then telephoned 911 and reported the incident and spoke with a Communications Division (CD) Emergency Board Operator (EBO).

CD broadcast an "ADW suspect there now" call at the location and provided the Subject's description.

Officers A and B responded with emergency lights and sirens (Code-3) to the radio call. The officers were equipped with Body Worn Video (BWV) cameras, which were mounted on their mid-upper torsos. The officers were driving a marked black and white, sport utility patrol vehicle, which was equipped with ballistic door panels and a Digital in Car Video System (DICVS). Both officers' BWV and DICVS were activated.

As Officers A and B arrived at the location, they were met by Victim A, who was in the street flagging them down. Officers A and B exited their police vehicle and met with Victim A. According to Officer A, Victim A was wide-eyed and seemed afraid. Victim A told them that the Subject had threatened to slit her throat with a knife. The Subject had gestured at her with the knife and now had the knife in his pocket. Victim A informed Officers A and B that the Subject was still inside the location, wearing a dark hooded.

While Officer A continued to speak with Victim A, Officer B went to the police vehicle and deployed a 40-millimeter less-lethal launcher from the trunk. According to Officer B, he/she deployed the launcher based on the facts that the Subject posed an immediate threat of violence, the Subject was armed with a knife, and that the Subject had already threatened Victim A. Officer B rejoined Officer A. The officers

communicated with each other, and Officer A requested an additional unit and a supervisor.

In an attempt to determine the Subject's current location within the restaurant, Officer A approached the location. According to Officer A, he/she was able to approach undetected due to the fact the location had large stickers depicting menu options covering the windows and the open entrance door, with the exception of a small portion of the window nearest the door. Officer A was on the sidewalk when he/she conducted a quick peek into the location through a transparent portion of the window and observed the Subject standing near the counter. The Subject was facing away from Officer A toward the kitchen. Officer A could see both of the Subject's hands and observed that the Subject was not holding a knife. Officer A relayed his/her observations to Officer B. Officer A noted that the inside of the location was very small.

Officer A's BWV captured the officers continuing to develop their tactical plan. Officer B assigned Officer A as lethal cover and advised he/she would be less-lethal. According to Officer B, he/she then proceeded to the open door of the location and stood on the sidewalk, approximately one to two feet from the doorway. According to Officer B, officers attempted to talk to the Subject because he/she knew their additional unit was close because he/she could hear the sirens of the responding unit.

According to Officer B, he/she observed approximately five people inside the location. Several people were sitting at a nearby countertop and there was a worker in the rear kitchen area. Officer B noted the individuals inside the location were nonchalant and were tuned out to what was going on around them. According to his/her BWV, Officer B asked the Subject to step outside five times; however, the Subject refused the request and stated, "No I'm not stepping out there." Officer B stated he/she tried to get the Subject to exit the location because he/she did not see a knife, and Officer B did not want to contact him with the patrons in close proximity. Officer B intended to have the Subject face the wall and handcuff him once he exited the location.

Officers C and D responded to the additional unit broadcast. The officers were equipped with BWV cameras and were driving a marked black and white, dual purpose police vehicle, which was equipped with ballistic door panels and a DICVS. Both officers' BWV and DICVS were activated.

According to Officer C, while en route to the call, he/she advised Officer D to deploy the 40-millimeter less-lethal launcher. According to Officer D, he/she went to the trunk of his/her vehicle upon arrival and deployed the 40-millimeter less-lethal launcher, so he/she would have it available, based on the comments of the call. Officer D's BWV captured him/her removing the 40-millimeter launcher from the trunk and loading one round in the chamber. Officers C and D proceeded to the front of the location and met with Officers A and B, who were standing at the doorway of the restaurant. Officer B informed Officer C that the Subject, who was seated at the table inside the location, brandished a knife at the victim and threatened to cut her throat.

According to Officer C, he/she began to verbalize with the Subject in Spanish. Officer C's BWV captured the Subject responding with profanities and saying, "I don't speak Spanish." According to Officer C, he/she then continued to verbalize with the Subject in English, asking him to exit the location; however, the Subject refused. Officer C's BWV captured the Subject refusing Officer C's commands, stating, "[expletive] you, I ain't going nowhere."

Officers B and D decided that Officer D would be the one to utilize the 40-millimeter less-lethal launcher if necessary. According to Officer B, he/she then walked approximately five to six steps away to talk to the victim. He/she also wanted to determine if there was a rear exit to get the people out of the restaurant without having to pass by the Subject.

Officer C's BWV captured Officer A inform Officer C that the Subject had produced a knife and threatened to cut Victim A's throat. Officer A added that the Subject may have the knife in his right pocket. Officer C relayed the information regarding the knife to his/her partner, Officer D. According to Officer C, after several requests to have him step out, he/she told the Subject, "Hey, you're either going to step out or we're going to get you out."

Officer C's BWV captured the Subject seated at a table, just inside the doorway to the location. In response to Officer C's command, the Subject stated that he had a gun and reached toward his right waistband area. Officer C ordered the Subject not to pull out the gun. Simultaneously, Officers A and C unholstered their service pistols. According to Officer C, he/she unholstered his/her service pistol and pointed it at the Subject, with his/her finger on the slide. Officer C later brought the pistol down to a two-handed, low ready position, keeping his/her finger on the slide. According to Officer A, he/she unholstered his/her service pistol and pointed it at the Subject due to his/her belief that if the Subject produced a gun or another weapon from his jacket, the situation could escalate to the use of lethal force. According to Officer C, the Subject removed a knife from his person and unfolded it. According to Officer A, he/she transitioned to a low-ready position when he/she assessed that the Subject had a knife and not a gun.

The Subject raised and lowered the knife with the blade pointing in a downward direction, extending out from the pinky of his closed right hand. Officers A and C identified that the Subject had, in fact, armed himself with a knife and not a firearm. Subsequently, they each notified the other officers who were present of their observations. Officers A and C backed away from the door, creating distance between themselves and the doorway. Officer C stated that he/she had to balance his/her distance from the doorway, giving the Subject room to exit, with possibly rendering aid to individuals inside, and with being able to communicate with the Subject despite the street noise. According to Officer C, when he/she redeployed, he/she was approximately 15 feet from the Subject.

According to Officer D, upon becoming aware that the Subject was armed with a knife, he/she transitioned from providing rear cover to redeploying and taking a position facing

the Subject. Officer D's BWV captured him/her repositioning to the right of Officer C on the sidewalk in front of the doorway. At this time, Officer D observed two individuals eating inside the location and two workers behind the counter of the location.

Upon learning the Subject was armed with a knife, Officer B requested a backup unit over the radio.

Referring to the potential discharge of the 40-millimeter less-lethal launcher, Officer D's BWV captured him/her warning the Subject, "Don't rush us or I'm going to hit you with this man. You better drop the knife." That was immediately followed by Officer A warning the Subject to drop the knife or less-lethal force would be used and it would hurt. According to Officer D, he/she looked around for cover and did not see any. Officer D communicated this to the other officers at scene.

According to Officer C, the Subject grabbed a chair with his left hand and shielded his body with the chair, which left only his head and his right hand that held the knife unprotected. Officer C believed the Subject's actions were in response to the officers being armed with less-lethal devices.

Officer A then gave the Subject another command to drop the knife, warning that his/her partner was going to beanbag the Subject, and it would seriously hurt.

Sergeant A arrived at the scene. According to Sergeant A, he/she met the group of officers in front of the location and was informed by Officer A that the Subject had pulled out a knife, committed an assault with a deadly weapon (ADW), and was now inside the location. Sergeant A assessed the scene and observed that there were individuals inside the location with the Subject. Sergeant A motioned to the individuals inside the location and ordered them to come out. Sergeant A's BWV captured a male that exited the location in response to Sergeant A's command.

Sergeant A broadcast that sufficient units had arrived.

Sergeant A began to develop a tactical plan and directed Officers C and D to step a little closer to the doorway, as he/she designated Officer C as lethal cover with his/her service pistol, Officer D as less-lethal with a 40-millimeter less-lethal launcher, and Officer B as less-lethal with a Taser. Sergeant A also directed Officer C to continue to verbalize with the Subject. As Officer C held his/her position, Officer C asked the other officers if the restaurant had rear access with the thought of either having another entry point or having the citizens inside the location exit from the rear.

Officers E and F responded to the additional unit broadcast. Officers E and F arrived at the scene at approximately the same time as Sergeant A. The officers were equipped with BWV cameras, which were mounted on their mid-upper torsos. The officers were driving a marked black and white, dual purpose patrol vehicle, which was equipped with ballistic door panels and a DICVS. Both officers BWV and DICVS were activated.

As Officer E and F approached the group of officers near the front of the location, Officer F saw other officers with their guns drawn, and that a 40-millimeter less-lethal launcher had been deployed. According to Officer F, he/she unholstered his/her service pistol based on the nature of call, the other officers having their guns drawn, and the belief that the situation could escalate to the use of deadly force. Officer F later holstered his/her pistol when he/she was tasked with speaking with Victim A.

Sergeant B arrived at the location shortly after Officers E and F. According to Sergeant B, he/she approached the group of officers in front of the location and was immediately briefed by Officer B. Sergeant B noted that there was a designated lethal cover officer, an officer with a Taser, and an officer with a 40-millimeter less-lethal launcher in front of the location. Sergeant B then assigned Officers A and E to be the arrest team. At that time Sergeant B realized that Sergeant A was coordinating the incident.

According to Sergeant A, when Sergeant B arrived, he/she said, "I got this," referring to controlling the tactical portion of the incident. Sergeant A did not specifically declare him/herself as the Incident Commander because he/she was involved with the ongoing tactical situation. However, since he/she was assigned the radio call and took over command of the tactical portion of the scene, Sergeant A believed that made him/her the Incident Commander.

Sergeant B then assisted with ancillary supervisory duties, which included ensuring an investigative report was signed by the victim and assigning units to assist with perimeter duties.

Sergeant A asked Sergeant B for a beanbag shotgun. According to Sergeant A, he/she wanted both a 40-millimeter launcher and a beanbag shotgun to be available, due to the fact the Subject was armed with a knife. Sergeant B, in turn, asked Officer F if he/she had one. According to Officer F, he/she retrieved a beanbag shotgun from the locked mount inside the passenger compartment of his/her vehicle. The beanbag shotgun was loaded with four rounds in the magazine tube. Officer F chambered one beanbag round but did not top off the magazine with an additional round.

Sergeant A ordered the Subject to drop the knife multiple times, which the Subject refused to do. Officer F returned with the beanbag shotgun and took a position to the right of Officer D, who had the 40-millimeter less-lethal launcher. Officer C's BWV captured Sergeant A attempting to identify where the citizens were located inside the location by asking the other officers. Officer C can be heard ordering the citizens inside the location to go to the back of the restaurant in both English and in Spanish as he/she motioned with his/her hand. According to Officer C, he/she believed some of the citizens went into a back room as a result of his/her direction. Officer C again inquired if there was rear access to the location, this time directing his/her question directly to Officer B. Officer B responded by leaving the group and asking Officer G who was positioned in the business adjacent to the location, meeting with Victim A. Officer G briefly spoke with an employee at that location who informed him/her that none of the businesses had rear access.

The officers stood in a row, on the sidewalk, approximately 15 feet from the open door of the location. Officer B was positioned the furthest east of the door armed with a Taser. To the right of Officer B stood Officer C, who was armed with his/her service pistol. Sergeant A stood slightly behind and to the right of Officer C. To Sergeant A's right, stood Officer D who was armed with a 40-millimeter less-lethal launcher. Officer F, who was armed with a beanbag shotgun, stood to the right of Officer D. Standing in the most west position in the row was Officer E. Officer A stood in the street behind Officers C and D. Officers A and E were assigned to the arrest team. Sergeant B stood in the street, behind the whole grouping of officers.

According to Sergeant B, he/she assessed the scene and observed Officer A with his/her service pistol unholstered. Based on the fact that Officer A was standing behind Officer C, who was the designated cover officer, Sergeant B believed a crossfire situation could occur between the officers. Sergeant B directed Officer A to holster his/her pistol, which he/she did.

Officer C continued to verbalize and attempted to gain rapport with the Subject. Additionally, Officer C continued ordering the Subject to drop the knife multiple times. In response to Officer C's commands, the Subject continued to yell, "[expletive] you." The Subject threatened to kill the officers while intermittently raising the point of the knife toward the officers. Officer B recalled the Subject threatening, "I'll kill you all," and yelling obscenities.

According to Sergeant A, Sergeant B, who was standing behind him/her, informed him/her that Sergeant B had formed an arrest team.

Moments later, Sergeant A's BWV captured him/her discussing different areas of the Subject's body that could be targeted by either the 40-millimeter less-lethal launcher or the beanbag shotgun with Officers D and F. Sergeant A stated to the Subject, "Sir, you need to drop the knife or you're going to be... or you're going to be hit with less-lethal. You're going to be hit with a rubber bullet and it's going to hurt."

According to Sergeant A, he/she informed Officers D and F that he/she would call for a beanbag standby but wanted the 40-millimeter discharged before the beanbag, due to the fact the 40-millimeter was more accurate. Officers D and F both acknowledged this plan.

According to Sergeant A, the Subject was holding the knife and making a stabbing motion with it. Sergeant A observed four people inside the location and believed the Subject could have stood up and stabbed one of the patrons. According to Sergeant A, he/she transitioned from verbalization to the deployment of less-lethal because the Subject was aggressive, he wasn't putting the knife down, and there was a need to protect the citizens inside the restaurant. Sergeant A then yelled, "beanbag standby!"

According to Officer D, he/she believed that the Subject, who was armed with a knife, posed an immediate threat to the patrons inside the restaurant and the officers, so Officer D targeted the Subject's right hand and discharged his/her first 40-millimeter round. Officer D believed he/she struck the Subject's right hand with the round; however, the Subject did not drop the knife. According to Officer D, he/she targeted the Subject's hand because that was the hand holding the knife and because that was his/her only target due to the Subject's torso being shielded by the chair. Additionally, Officer D believed that striking the Subject's hand might cause him to drop the knife. According to Officer C, he/she observed the 40-millimeter round strike the Subject in the right hand and noted that it had no effect.

Sergeant A's BWV captured him/her stating, "Go ahead, hit with," followed by Sergeant A again ordering the Subject to drop the knife. According to Sergeant A, the Subject still had the knife in his hand and the chair in front of him, which is why he/she ordered an additional round to be fired. Sergeant A advised that the Subject remained in this position until he dropped the knife and this was the reason he/she ordered each less lethal round to be fired.

Officer D reassessed and reloaded the launcher. According to Officer D, the Subject was still armed with the knife, was refusing to comply, and had become increasingly irritated after the first round. The Subject was violently resisting by waving the knife in increasingly larger upward and downward motions, and he was still a threat to the people inside the location and to the officers. Officer D waited for the Subject to lower his hand to minimize the chance of a ricochet and striking anyone else inside the location. When he did so, Officer D targeted the Subject's right hand and discharged a second 40-millimeter round.

Following the discharge of the second 40-millimeter round, Sergeant A's BWV captured both Sergeant A and Officer C again ordering the Subject to drop the knife. Officer C also advised officers that the Subject was still armed.

According to Officer D, he/she again reloaded the launcher and reassessed the situation. He noticed the Subject was injured and had started to bleed. The Subject was still armed with the knife and was threatening to kill the officers. Officer D observed the Subject raise the chair, higher than it had been, exposing his legs. Officer D communicated his/her observations to Sergeant A, who in turn, ordered him/her to target the Subject's leg. Due to the ineffectiveness of the first two rounds, Officer D believed targeting the Subject's leg would be a viable alternate target, causing the Subject to drop the knife and de-escalate the situation. Officer D targeted the Subject's right outer thigh and discharged his/her third 40-millimeter round. Officer D believed he/she struck the Subject's outer right leg with the third round; however, the Subject still had not dropped the knife. Officer D then extracted the spent 40-millimeter cartridge case from the launcher, closed the empty breach, and slung the launcher over his/her left shoulder and across his/her back in a "climb and carry" position. Officer D discharged each of his/her three 40-millimeter rounds at the Subject from a distance of approximately 22 feet.

After the discharge of the third 40-millimeter round, Sergeant A's BWV captured him/her stating, "Beanbag, beanbag!" According to Officer F, the only viable target on the Subject's body was his upper right arm, because he was still shielding himself with a chair. Officer F targeted the Subject's upper right arm and discharged one beanbag round. Officer F believed he/she struck the Subject's right arm. Officer F discharged his/her first beanbag round at the Subject because he/she believed that the 40-millimeter rounds had been ineffective; the Subject was still armed with the knife and in close proximity to the patrons, and he/she wanted to prevent the Subject from attacking the patrons and creating a potential hostage situation.

After discharging the first beanbag round, Officer F chambered another round and reassessed. Officer F stated that the Subject started screaming louder and continued to wave the knife in an overhand grip with the blade facing downward, as if to overhand stab someone. Officer F targeted the Subject's right thigh and discharged a second beanbag round, which he/she believed struck the Subject's right thigh. According to Officer F, he/she discharged his/her second beanbag round due to the Subject becoming increasingly irate, screaming louder, and continuing to wave the knife. Immediately following the impact of the second beanbag round, the Subject dropped the knife. Officer F discharged both of his/her beanbag rounds at the Subject from a distance of approximately 22 feet.

After the discharge of the second beanbag round, Sergeant A observed the knife "fly out" of the Subject's hand and onto the ground. Sergeant A believed that it was a good opportunity to take the Subject into custody, so he/she ordered the officers to enter the location. Sergeant A's BWV captured Officer C enter the location first. He/she was followed by Officers A, B, D, E, and F, and finally Sergeant A. Just after entering the location, Officer F slung his/her beanbag shotgun over his/her left shoulder and across his/her back in a "climb and carry" position.

According to Officer C, he/she advised the other officers that the Subject had dropped the knife. Officer C believed it would be his/her only opportunity to take the Subject into custody, before he/she could rearm him/herself. Officer C entered the location, still providing lethal cover. The Subject was still seated in a chair facing the open door, grasping the chair he was using as a shield with both hands, as the officers entered the location. While holding his/her pistol in his/her right hand, Officer C used his/her left hand and grabbed the Subject's right hand, in an attempt to keep the Subject from reaching for the knife. Simultaneously, Officer C attempted to kick the knife away with his/her right foot but was unsuccessful. Officer C then moved to allow the arrest team to take the Subject into custody.

Officers D and E were next to contact the Subject. According to Officer E, the knife was on the ground, approximately two feet to the left of the Subject. In an effort to keep the Subject away from knife, Officer E grabbed the Subject's right arm with his/her right hand and began to guide him to the ground, away from the knife. Officer D's BWV captured him/her place his/her left hand on the back of the Subject's left arm and his/her

right hand on the left side of the Subject's back. Officer D then pushed the Subject toward the floor as Officer E rotated the Subject to his right, off the chair he was seated on, to the ground. Witness C's cellular phone video captured Officer E grasping the Subject's right wrist with his/her right hand and then placing his/her left hand on the Subject's left arm to begin guiding him to the ground. Officer E then released the grip on the Subject's left arm and placed his/her left forearm across the Subject's upper back and applied bodyweight as he/she continued to guide the Subject to the ground.

As Officer E guided the Subject, and Officer D pushed on the Subject's arm and back, Officer F grabbed the Subject's left arm. Officer F used his/her left hand to grasp the Subject's left wrist, while Officer F's right hand maintained a C-grip on the Subject's left elbow as he/she assisted in taking the Subject down to the ground. As the Subject was being taken to the ground, Officer A observed the Subject's knife on the ground near the chair where the Subject had been seated. Officer A picked up the knife, using a couple of his/her fingers to grip the edges of the handle. Officer A's BWV captured him/her stating, "I got the knife! Knife's out of play! Knife's out of play!"

As the Subject went to the ground, he was able to pull his right hand under his body. Officer F placed his/her right knee onto the Subject's lower back area and placed his/her left knee onto the Subject's shoulder blades, while maintaining control of his left arm. Once Officer F realized that Officer E could not grasp the Subject's right arm, he/she took his/her body weight off and lifted the Subject's body up by his left arm. Officer E's BWV captured him/her use his/her right and left hands to pull at the right sleeve of the Subject's sweatshirt, which in turn pulled the Subject's right hand out from under his body.

While Officer E attempted to pull the Subject's hand out from under his body, Officer C activated his/her pistol mounted flashlight, in an attempt to illuminate the Subject's right hand. Officer C stated that he/she remained unholstered while the Subject was being taken into custody, due to the fact that he/she was unsure if the Subject had another weapon. Officer B's BWV captured Officer B position him/herself near the Subject's feet. Officer B can be heard stating to the Subject, "Relax... Relax... Relax or I'm going to tase you." Officer B is seen holding the Taser in his/her right hand. The laser sight of the Taser can be seen emitting from the Taser during that time.

Officer E used his/her right hand to control the Subject's right wrist and his/her left hand to apply a wrist lock to the Subject's right hand and wrist. Officer E then placed the Subject's right hand behind his back. Officer F repositioned himself, placing his/her right knee onto the Subject's lower back area and placing his/her left knee onto the Subject's shoulder blades, while maintaining control of his left arm. Officer F then brought the Subject's left arm behind his back. Simultaneously Officer F used his/her right hand to place the Subject's left fingers into a finger flex position. Officer B holstered his/her Taser and assisted with handcuffing the Subject. Officer B handcuffed the Subject's right wrist, then his left wrist, and searched the Subject's rear waistband for weapons. Officer A's BWV captured Officer C holstering his/her pistol prior to the Subject being handcuffed.

Officers broadcast that the incident had been resolved (Code-4) and that the Subject was in custody. Officer B maintained a grip of the Subject's left arm, and Officer E maintained a grip of the Subject's right arm. Officers B and E moved the Subject into a seated position and stood him up. The officers then guided the Subject out of the business and to the rear of Officer B's police vehicle. Officer E searched the Subject while standing at the rear of the vehicle.

Officers requested a Rescue Ambulance (RA) for the Subject. Los Angeles Fire Department (LAFD) personnel responded to the scene and began treating the Subject for wounds to his hands. The Subject was transported to the hospital for treatment. The Subject was later admitted to the hospital for an open fracture to his right hand.

The Department Operations Center (DOC) was notified of the Law Enforcement Related Injury.

Force Investigation Division Detectives reviewed all documents and circumstances surrounding the separation and monitoring of the involved officers.

### **Los Angeles Board of Police Commissioners' Findings**

- The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

#### **A. Tactics**

The BOPC found Sergeant A's tactics to warrant Administrative Disapproval. The BOPC found Sergeant B, along with Officers A, B, C, D, E, and F's tactics to warrant a Tactical Debrief.

#### **B. Drawing and Exhibiting**

The BOPC found Officers A, C, and F's drawing and exhibiting of a firearm to be In Policy.

#### **C. Non-Lethal Use of Force**

The BOPC found Officers B, C, D, E, and F's non-lethal use of force to be In Policy.

## D. Less-Lethal Use of Force

The BOPC found Officers D and F's less-lethal use of force to be In Policy.

### Basis for Findings

- In making its decision in this matter, the Commission is mindful that every “use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department’s guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), stating that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the suspect’s actions place person(s) in imminent

- jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

## **A. Tactics**

- **Tactical De-Escalation**

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officers A and B, having worked as partners for approximately one year, had a standing plan regarding contact and cover roles, as well as lethal and less-lethal force option designations. Upon his/her arrival, Sergeant A considered the exigency of the situation and continued to emphasize planning by assigning officers to provide lethal force cover as well as a variety of less-lethal force options. Sergeant B assigned officers to an arrest team. Sergeant A considered requesting MEU and SWAT, but he/she decided that the exigency of the situation precluded their involvement at the time. While Sergeant A did not clearly communicate a plan to enter the restaurant and make physical contact with the Subject after the deployment of less-lethal munitions, the overall planning during this incident assisted in bringing this situation to a successful resolution and it was obvious that the preservation of life was the officers' and sergeants' primary objective.

**Assessment** – After meeting with Victim A and assessing the information given to them, Officer B retrieved the 40mm LLL from the police vehicle in order to have less-lethal force options available during a potential edged weapon encounter. As they approached the location and prior to contacting the Subject, Officer A utilized a “quick-peek” to ascertain the Subject’s exact location within the restaurant and thereby gain a tactical advantage. Prior to making verbal contact with the Subject, Officers A and B had assessed the situation and observed that the Subject did not have any weapons in his hands and were aware that additional units were responding. As Sergeant A dealt with the ongoing tactical incident, Sergeant B considered other needs and formulated an arrest team, assigned ancillary duties, designated officers to assist in mitigating pedestrian traffic and ensured that a crime report was taken from the Victim A. During the discharge of multiple less-lethal rounds, Officers D and F assessed after each round that they fired. Officer D assessed the situation and was specifically cognizant of the danger of a potential ricochet from less-lethal rounds to citizens inside the restaurant. Sergeant A was able to assess that the Subject was no longer armed with the knife and determined that it was the safest time for the officers to physically detain him. Throughout the incident, including during the use of less-lethal and non-lethal force, the officers and sergeants continuously assessed the Subject’s actions to determine the appropriate course of action.

**Time** – After making initial verbal contact with the Subject, Officers A and B did not approach him and took the time to wait for the arrival of additional resources in an effort to gain a tactical advantage. After assuming the role as the contact officer, Officer C kept the Subject’s attention focused on him/her instead of the patrons and employees inside the restaurant. This tactic afforded the officers additional time for tactical planning and re-assessments. Upon arrival, Sergeant A directed the officers to continue communicating with the Subject, providing Sergeant A additional time to quickly evaluate the situation, given its exigency, and put together a tactical team and coordinated effort with designated assignments. It was noted that the situation posed a tactically difficult scenario for the responding officers as there was no available cover and the presence of civilians in close proximity to the Subject, who was armed with a knife, meant that the officers could not gain distance without sacrificing their ability to render timely aid to the citizens.

**Redeployment and/or Containment** – As Officer C communicated with the Subject, the Subject advised the officers he had a gun and reached into his pockets. When the Subject brandished a knife from his pocket instead of a gun, officers rapidly assessed the situation, did not resort to lethal force and redeployed a few times to increase the distance between the Subject and themselves, ending approximately 22 feet away from the Subject. The officers balanced their distance and angle on the location with keeping visual contact with the Subject in the event the situation escalated further. The location was contained by the officers at the front of the business and the location did not have any rear exits.

**Other Resources** – Prior to approaching the restaurant, Officer A verified the response of other resources, including a supervisor and an additional unit, and Officer B ensured that they were armed with a 40mm LLL. When the Subject armed himself with a knife, Officer B broadcasted a back-up request for additional units. He/she also requested a ballistic shield due to the officers' lack of cover on the sidewalk. Sergeant A ensured that a variety of less-lethal force options, including a TASER, 40mm LLL and a Beanbag shotgun were deployed during the incident. While Sergeant A was occupied with directing the tactical operations, it would have been preferred that Sergeant B had made notifications to SWAT and MEU since he/she was the second sergeant at the scene. It was noted that Sergeant B utilized other resources by assigning incoming personnel to pedestrian and traffic control and other ancillary duties, including obtaining additional information from the original victim (Victim A).

**Lines of Communication** – Throughout the incident, the officers and supervisors utilized lines of communication with each other, the Subject, the restaurant patrons and Victim A. Officer B initially approached the entrance of the restaurant and requested that the Subject exit the location in an attempt to gain his compliance and reduce the potential harm to the patrons and employees who were in close proximity to the Subject. Upon the arrival of additional officers, the officers utilized Officer C, a Spanish-speaking officer, to attempt to open a dialogue with the Subject. As the Subject waved the knife in the air and appeared to be making stabbing motions, officers issued multiple Use of Force Warnings to the Subject, ordering him to drop the knife or possibly suffer injury. The Subject did not comply and although he had refused multiple orders from the officers, the arriving supervisor, Sergeant A, directed the officers to continue their de-escalation efforts by communicating with the Subject. This sustained effort kept the Subject distracted from the patrons nearby and allowed Sergeant A to assess and cultivate a coordinated tactical plan. Throughout the incident, the officers and sergeants continued to communicate with the Subject both before and during the use of force.

The BOPC noted the Mental Health Intervention Training (MHIT) received by the officers at scene and opined that it played a vital role in the encounter with the Subject. The training was evident in how the officers initially approached the encounter with the Subject and used varying communication tactics throughout the incident. In examining their communication efforts, it was apparent to the BOPC that the officers and sergeants were continually attempting to de-escalate a tense situation in the hopes of gaining the Subject's voluntary compliance to submit to a lawful arrest.

- During its review of this incident, the BOPC noted the following tactical considerations:

1. **Body Armor** (Substantial Deviation – Sergeant A)

Sergeant A did not don his/her Department-approved body armor as required when conducting field related duties.

In this case, the BOPC considered not only the individual safety of Sergeant A, but also what could have occurred if Sergeant A was to suffer injuries as a result of not wearing body armor during a volatile incident. The BOPC opined that in an unfortunate scenario where Sergeant A incurred injuries, the officers at scene would reasonably divert their attention from the tactical operation in order to render aid to Sergeant A. Sergeant A was also the tactical team leader and IC of this critical incident and if critically injured would have been unable to perform those functions. In addition to the consideration of his/her personal safety, Sergeant A was expected to be an example for his/her subordinates and comply with the Department's mandated field equipment requirements.

The BOPC determined that Sergeant A's decision not to don his/her body armor while working in a patrol capacity was a substantial deviation, without justification, from Department policy and approved tactical training.

## **2. Contact and Cover Roles**

Operational success is based on the ability of officers to effectively establish designated roles and communicate during critical incidents. Officers improve overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, Officer C acted as both the contact officer and the lethal cover officer, also known as Designated Cover Officer (DCO). As the contact officer and the DCO, Officer C was the primary means of communication and the only designated lethal force option available as part of the tactical plan. While this dual assignment is often performed when there are minimal resources at a scene, it is preferable to reassign one of the responsibilities to another officer as soon as practicable, so the officers can focus on a singular task. Therefore, upon the arrival of additional resources, it would have been beneficial for either Sergeant A or Officer C to re-assign one of C's assigned duties to another officer in order to reduce the multi-tasking required of Officer C.

As a result of being both the contact and cover officer, Officer C was in a position to enter the restaurant first. As he/she was entering the restaurant, Officer C observed the Subject attempting to reach for the knife in order to rearm himself. Officer C initiated physical contact with the Subject using his/her left hand while still holding his/her service pistol in his/her right hand. Officer C recognized he/she was not supposed to initiate physical contact while unholstered, but felt it was necessary since he/she was the first to make entry. Because he/she was closest to the Subject, Officer C saw a window of opportunity to kick the knife out of the Subject's reach and wanted to prevent the Subject from rearming himself, prior to the arrest team making physical contact.

Officer C recognized the unsafe situation of initiating physical contact with the Subject while armed with his/her service pistol and corrected his/her actions by immediately stepping aside to allow the arrest team to take the Subject into custody. The BOPC recognized that Officer C was critical of him/herself and self-corrected his/her actions.

Based on the totality of the circumstances, the BOPC determined that although Officer C deviated from his/her role as the DCO, he/she did so to prevent the Subject from re-arming himself with the knife. Additionally, he/she entered the restaurant under the direction of Sergeant A. Officer C's assuming the role of a contact officer, while still in the designated role of a cover officer, was a substantial deviation, with justification, from approved Department tactical training.

The above topics were to be discussed at the Tactical Debrief.

- The BOPC also considered the following:
  - **Body Worn Video (BWV) activation** – The investigation revealed that Sergeants A and B, along with Officers E and F did not activate their BWV during their Code Three response. Sergeants A and B, along with Officer F, activated their BWV upon arrival at scene, while Officer E activated his/her BWV approximately one minute after being at scene. The aforementioned personnel are reminded of the importance of activating BWV as soon as it is practical and safe to do so when initiating any investigative or enforcement activity involving a member of the public, and while responding Code Three.
  - **Required Equipment** – The investigation revealed that Officer E left his/her side-handle baton in his/her police vehicle and that Sergeant A was not equipped with his/her Hobble Restraint Device (HRD) at the time of the incident. Both Officer E and Sergeant A were reminded of the importance of having their required field equipment on their person to allow for additional tools and force options to de-escalate an incident.
  - **Situational Awareness** – The investigation revealed Officers A and B met and interviewed the PR while standing in the street. Officers A and B were reminded of the dangers posed by conducting activities on the roadway and when practical, to utilize the sidewalk to ensure the safety of all involved.
  - **Non-Conflicting Simultaneous Commands** – The investigation revealed that Officers B and C simultaneously ordered the Subject to drop the knife. Although the commands were non-conflicting, the officers were reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

- **Radio Codes and Procedures** – The investigation revealed that due to the ongoing tactical incident and consideration for maintaining a clear radio frequency, Sergeant B did not broadcast he/she was responding Code Three to the incident, nor did he/she broadcast he/she was Code Six upon arrival. Sergeant B was reminded of the Department's requirement to notify CD of Code Three responses and Code Six locations whenever feasible.
- **Tactical Communication** – The investigation revealed that Sergeant A assumed the responsibilities of an IC through his/her actions but did not formally declare him/herself as the IC. As the IC, Sergeant A did not clearly communicate a plan to enter the restaurant and make physical contact with the Subject after the deployment of less-lethal munitions. Additionally, Sergeant A used the incorrect preparatory commands to alert officers of the 40mm LLL being ready to fire.

Sergeant A was reminded of the importance of effective communication and the usage of correct terminology during a tactical incident to reduce possible confusion and improve operational success.

- **Barricaded Suspects** – Metropolitan Division SWAT was not notified due to the rapidly evolving tactical incident with multiple citizens within reach of the Subject. It was noted that Sergeant A was coordinating with officers and was dealing with the immediate tactical operations and Sergeant B was in a better position to make notifications and request additional resources as the secondary supervisor at scene. In doing so, Sergeant B would have assisted Sergeant A, who had assumed command and control over the tactical operation. Sergeant B was reminded of the importance of making timely notifications to the appropriate entities to enhance the available resources at the scene in order to bring the incident to a successful resolution.
- **Effective Encounters with Mentally Ill Persons** – The investigation revealed that the Subject's behavior was consistent with a person suffering from mental illness and/or being under the influence of alcohol or narcotics. As the secondary supervisor at scene, Sergeant B was in a better position to make notifications and request additional resources to assist Sergeant A, who had assumed command over the tactical operations. Sergeant B was reminded of the resources available when encountering persons suffering from mental illness, including contacting the Department's Mental Evaluation Unit (MEU) for guidance.
- **Designated Less-Lethal Duties** – The investigation revealed that Officer B left his/her position as the designated TASER officer in an attempt to ascertain if there was a rear entrance/exit to the location and had to be directed back to his/her assignment. Additionally, although Officers D and F were not assigned as part of the arrest team, they slung their beanbag shotgun and 40mm Less-Lethal Launchers and initiated physical contact with the Subject to take him into custody. Although it is sometimes necessary for officers in designated roles to

be flexible and take on other roles, it can create confusion and reduce operational effectiveness; therefore, officers were reminded of the importance of maintaining their designated roles when sufficient resources are available.

- **Basic Firearms Safety Rules** – The investigation revealed that Officer C made physical contact with the Subject using his/her left hand while holding his/her service pistol in his/her right hand. Officer C allowed the muzzle of his/her service pistol to momentarily cover his/her left hand as he initiated physical contact with the Subject. Officer C was reminded of the importance of the Department's Basic Firearm Safety Rules.
- **TASER Manipulations** – The investigation revealed that the laser sight on Officer B's TASER was illuminated, indicating that the TASER's safety was off as Officers E and F took the Subject into custody. Officer B's BWV captured the laser sight momentarily covering both Officer F's back and the back of Officer E's head. Officer B was reminded of the importance of TASER manipulations and weapons discipline.
- **Requesting a Rescue Ambulance (RA)** – The investigation revealed that despite the anticipated use of less-lethal force options and the Subject being armed with an edged weapon, Sergeants A and B did not have a RA on standby during the tactical incident. While an RA was requested moments after the Subject was taken into custody, both sergeants were reminded of the importance of reverence for human life and ensuring the timely response of appropriate emergency medical personnel.

These topics were to be discussed at the Tactical Debrief.

## **Command and Control**

- Sergeant A responded to a CD request for a supervisor as part of the Department's Edged Weapons Protocol. Sergeant A was the first supervisor to arrive at scene and while he/she did not declare himself as the IC, he/she assumed the role of an IC through his/her actions. Sergeant A received a briefing from Officer A and inquired if there were other citizens inside the location.

Sergeant B arrived at the location in response to the back-up request and was the second supervisor at scene. Sergeant B began to designate lethal and less-lethal force options, not realizing that Sergeant A was already at scene. Sergeant A advised Sergeant B that he/she had tactical control of the incident.

Sergeant A directed the citizens inside the restaurant to exit with partial compliance. Due to his/her assessment of the available resources at scene, Sergeant A broadcast that he/she had sufficient units at the location. Sergeant A designated the roles of lethal and less-lethal force options to officers at scene. Sergeant A verified that the Subject did not speak Spanish and advised the officers to continue

verbalizing with the Subject. Sergeant A also verified the type of crime with Officer A, assessed the situation, and requested a Beanbag shotgun from Sergeant B, who directed Officer F to retrieve and deploy the Beanbag shotgun.

Sergeant B formed an arrest team and advised Sergeant A of their presence. Sergeant B noted Officer A's position behind Officer C, believed a potential cross-fire situation could occur, and directed Officer A to holster his/her weapon.

When Officer B left his/her less-lethal assignment to ascertain if there was a rear entrance to the restaurant, Sergeant B re-directed Officer B back to his/her designated role (TASER) on the contact team. Sergeant B took control over ancillary duties, which included the directing of multiple officers to contain the scene and prevent pedestrians from entering a dangerous situation. Sergeant B also directed officers to interview the PR and obtain sufficient relevant information to complete a crime report.

Sergeant A issued multiple Use of Force Warnings prior to directing Officer D to discharge the 40mm LLL, which was followed by directing Officer F to discharge the Beanbag shotgun. After the Subject dropped the knife, Sergeant A directed officers to make entry into the location and take the Subject into custody. Sergeant A also telephonically notified the Watch Commander of the use of force. Sergeant A assisted with the NCUOF investigation by taking digital photographs of the location, while Sergeant B assisted with the NCUOF investigation by canvassing and interviewing civilian witnesses in Spanish.

The BOPC noted that while Sergeant A's tactical plan was comprised of many aspects, including open lines of communications with the Subject and officers, and the designation of various force option roles and continuous assessment, they would have preferred that Sergeant A's plan included a more coordinated approach with detailed and defined roles for the officers that entered the restaurant. Clear and concise instructions provided to his/her team of officers prior to making physical contact with the Subject may have negated or at least mitigated the role confusion experienced by the officers.

Additionally, the BOPC believed that the situation could have benefitted from enhanced communication between Sergeants A and B regarding requests for specialized resources.

Nonetheless, the BOPC found that overall, Sergeants A and B were faced with a rapidly unfolding and tactically difficult situation that very easily could have escalated further, and it was through their leadership and command and control that the situation was successfully resolved without the use of lethal force. Therefore, the actions of Sergeants A and B were consistent with Department supervisory training and met the BOPC's overall expectations of field supervisors during a critical incident.

Additional supervisors started a NCUOF investigation and completed post CUOF separation and monitoring duties.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

In conducting an objective assessment of this case, the BOPC determined that Sergeant A's decision to not wear body armor was a substantial deviation, without justification, from Department policy and training, thus requiring a finding of Administrative Disapproval.

Additionally, in conducting an objective assessment of this case, the BOPC determined that Sergeant B's along with Officers A, B, C, D, E, and F's tactics did not substantially deviate from approved Department tactical training.

The BOPC found Sergeant A's tactics to warrant Administrative Disapproval. The BOPC found Sergeant B, along with Officers A, B, C, D, E, and F's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- According to Officer C, he/she advised the Subject to voluntarily exit the restaurant or officers would enter to take him into custody. The Subject responded by stating, "I have a gun," and simultaneously reached towards his right pocket. Believing the Subject was arming himself with a firearm; Officer C unholstered, and immediately observed that the Subject was armed with a knife. Officer C remained unholstered with his/her service pistol in a low-ready position.
- According to Officer A, while officers were communicating with the Subject and ordering him to exit the restaurant, the Subject advised the officers that he had a gun and swiftly reached into his pockets. Officer A heard another officer at scene order the Subject not to reach for the weapon. Officer A drew out his/her service pistol in the direction of the Subject in preparation to confront the Subject who may have been armed with a gun or another weapon. Officer A also believed that the situation could possibly escalate to one involving lethal force. Officer A observed that the Subject came out with a knife from his pocket, so Officer A transitioned to a low-ready position.
- According to Officer F, due to the nature of the radio call, he/she believed that the situation may escalate to the point where deadly force would be justified and drew his/her service pistol. The radio call was a "415 man armed with a knife threatening the PR." Officer F was also responding to a backup and observed another officer unholstered.

In this case, the BOPC conducted a thorough review in evaluating the reasonableness of Officers A, C, and F's drawing and exhibiting of a firearm. The BOPC noted that the officers responded to a radio call with comments indicating the Subject was armed with a knife. Upon the officers' contact with the Subject, the Subject armed himself with a knife and this was communicated to the officers at scene.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, C, and F, while faced with similar circumstances, would reasonably believe that there was a substantial risk this situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A, C, and F's drawing and exhibiting of a firearm to be In Policy.

### **C. Non-Lethal Use of Force**

- **Officer C – (Firm Grip)**

According to Officer C, he/she observed that the Subject dropped the knife and subsequently was the first to make entry into the restaurant at the direction of Sergeant A. Officer C had a clear shot to kick the knife away to prevent the Subject from re-arming himself and grabbed the Subject's right hand, using his/her left hand. Officer C maintained his/her service pistol in his/her right hand and while doing so, was unable to reach the knife. Officer C then moved out of the way for the arrest team to grab ahold of the Subject.

- **Officer D – (Physical Force)**

According to Officer D, after the Subject dropped the knife on the floor and the officers were making entry into the location, he/she observed the Subject attempting to reach for the knife. In order to create distance between the Subject and the knife, Officer D pushed the Subject on his right shoulder area.

- **Officer E – (Take Down, Physical Force, Wrist Lock)**

According to Officer E, in order to prevent the Subject from re-arming himself with the knife, effect the arrest, and take the Subject into custody with no further incident, Officer E grabbed the Subject's left arm with his/her left hand and swept him down to the ground. After the takedown, the Subject's right hand was concealed underneath his body. Officer E reached under the Subject's body and pulled out the Subject's right hand using his/her left hand.

- **Officer F – (Takedown, Body Weight, Wrist Lock)**

According to Officer F, after entering the location to effect an arrest on the Subject, he/she grabbed the Subject's left wrist with his/her left hand. Officer F then used his/her right hand to place a C-grip on the Subject's elbow and walked the Subject down to the ground.

According to Officer F, after Officers D and E took the Subject to the ground, he/she placed his/her right knee on the Subject's lower back to assist the officers with controlling him. Officer F then applied a finger flex on the Subject's hand to bring the Subject's arm behind his back and facilitate the handcuffing.

- **Officer B – (Firm Grip)**

According to Officer B, two officers were holding the Subject's arms. Officer B approached the Subject from behind and straddled him. Without placing any bodyweight on the Subject, Officer B grabbed the Subject's right arm and placed the handcuffs on him.

The BOPC reviewed each application of non-lethal force by the involved officers in this case and determined that the force used by the officers was reasonable based on the Subject's physical resistance. The Subject did not comply with officers' lawful orders to submit to arrest and escalated the incident further when he attempted to re-arm himself with the knife. Throughout the incident, officers issued multiple commands to de-escalate the situation, but were forced to use non-lethal force to take the Subject into custody and bring the incident to a successful resolution.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers B, C, D, E, and F, while faced with similar circumstances, would believe that the same applications of non-lethal force would be reasonable to overcome the Subject's resistance and effect his arrest.

Therefore, the BOPC found Officers B, C, D, E, and F's non-lethal use of force to be objectively reasonable and In Policy.

#### **D. Less-Lethal Use of Force**

- **Officer D – (40mm Less-Lethal Launcher)**

**First Discharge – (1) 40mm round.**

According to Officer D, with citizens inside the location and the Subject's continuous movement while actively waving his hand up and down with the knife, Officer D fired one round from the 40mm Less-Lethal Launcher at the Subject's right hand to stop the immediate threat of violence.

**Second Discharge – (1) 40mm round.**

According to Officer D, the Subject continued to be armed with a knife as well as a chair. The Subject continued shouting and violently resisting while posing a threat to the citizens inside the location, as well as to the officers standing on the sidewalk. The Subject started waving the knife in bigger motions while refusing to comply with the officers' orders. Officer D fired a second round from the 40mm Less-Lethal Launcher at the Subject's right hand to stop the immediate threat of violence.

**Third Discharge – (1) 40mm round.**

According to Officer D, the Subject, while still armed with the knife, started to make threats against the officers stating, "I'm going to kill you." As the Subject continued to resist and pose a threat to the citizens and officers, the Subject raised the chair higher, exposing his legs. Sergeant A ordered Officer D to take the shot. Officer D fired a third round from his/her 40mm LLL aimed at the Subject's right leg to stop the immediate threat of violence. Officer D believed he/she struck the Subject's outer right leg, but the Subject still did not drop the knife.

- **Officer F – Beanbag shotgun**

**First Discharge – (1) Super-sock round.**

According to Officer F, due to the close quarters within the restaurant, the Subject was armed with a knife and had immediate access to multiple victims that were in close proximity to him. Officer F noted the Subject's erratic behavior and the ineffectiveness of the 40mm LLL. To prevent the Subject from attacking the citizens inside the location and negate a possible hostage situation, Officer F fired a Super-sock round from his/her Beanbag shotgun at the Subject's upper right arm to stop the immediate threat of violence.

**Second Discharge – (1) Super-sock round.**

According to Officer F, the Subject continued to wave the knife, while holding it in an overhand stabbing position, and started to scream even louder. Additionally, the Subject used the chair to cover himself, bracing for another impact. At that point, Officer F fired a second Super-sock round from his/her Beanbag shotgun at the Subject's right thigh to stop the immediate threat of violence.

The BOPC reviewed each application of less-lethal force by Officers D and F and determined that the force used was reasonable based on the Subject's violent actions toward Victim A and the violent threat posed to the citizens inside the restaurant, as well as to the officers at the scene. The Subject had uttered criminal threats directed towards Victim A and told officers that he was going to kill them as he made stabbing motions with a knife.

The BOPC noted that Officers D and F conducted individual and distinct assessments between each discharge of less-lethal munitions, to determine the

effectiveness and necessity of each round. These assessments also allowed for precision shots on specific target areas. Furthermore, the BOPC opined that it was beneficial to have multiple less-lethal force options available and that the use of these devices was a major factor in the safe and successful resolution of this incident.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers D and F, would believe that the Subject posed a threat of violence, and while faced with similar circumstances, would believe that the same applications of less-lethal force were reasonable to protect themselves and others, as well as to effect the Subject's arrest.

Therefore, the BOPC found Officers D's and F's less-lethal use of force to be objectively reasonable and In Policy.